

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-28780-2018

Date of Decision: 15.11.2018

Punjab National Bank

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Anandeshwar Gautam, Advocate and
Mr. Gaurav Goel, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing respondent No.2 to decide the application dated 22.10.2014 (Annexure P-4) moved by the petitioner under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the SARFAESI Act”) and to handover physical possession of the mortgaged properties.

2. Respondents No.3 to 5 have taken the loan of ₹ 4.10 crores (CC, CC-BD, OD) from the petitioner on 29.9.2007. Respondent No.6 stood as guarantor and executed various documents in favour of the petitioner. They had committed a default in repayment of the loan amount including the interest and their account was declared as NPA on 1.7.2008

(2) of the SARFAESI Act was issued to respondents No.3 to 6 for the payment of outstanding amount. Thereafter, notice dated 1.10.2009 (Annexure P-2) under Section 13(4) of the SARFAESI Act was issued to respondents No.3 to 6. Vide letter dated 23.7.2010 (Annexure P-3), the petitioner had approved the OTS proposal for the acceptance of ₹ 650 lakhs in both the NPAs account of M/s SR Rice Mills and M/s Mangla Solvex India (₹ 3.30 crores and ₹ 3.20 crores). Respondents No.3 to 6 vide letters dated 22.11.2010 and 17.12.2010 requested the petitioner to modify its terms and conditions who vide letter dated 31.12.2010 (Annexure P-3) had approved some modifications. Since respondents No.3 to 6 had not deposited the OTS amount, the petitioner put the mortgaged properties on e-auction on 27.9.2013 and 30.9.2014, but the said auction failed as nobody had participated. Thereafter, the petitioner moved an application dated 22.10.2014 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.2 for taking physical possession of the mortgaged properties. Respondent No.2 has kept the matter for hearing on various dates, but to no effect. The Divisional Commissioner, Patiala had written a letter dated 28.5.2015 (Annexure P-5) to respondent No.2 to take a decision on the application filed under Section 14 of the SARFAESI Act, but no response has been received till date. The petitioner vide letters (Annexure P-6 Colly) requested respondent No.2 to pass necessary orders on the application, Annexure P-4, but all in vain. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved an application dated 22.10.2014 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.2 and the Divisional Commissioner, Patiala Division, Patiala

vide letter dated 28.5.2015 (Annexure P-5) directed respondent No.2 to look into the matter and do the needful, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the application dated 22.10.2014 (Annexure P-4), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the concerned parties within a period of two months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

November 15, 2018
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No